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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/773,852 | 02/06/2004 | Jurgen Adamek | | 7227 |
| 7590 | 10/31/2005 | | EXAMINER | |
| Dr. Max Fogiel 44 Maple Court Highland Park, NJ 08904 | | | WILLIAMS, THOMAS J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | | 3683 |

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/773,852 | ADAMEK ET AL. |
| | Examiner Thomas J. Williams | Art Unit 3683 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final..
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 5-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 5-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 February 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 6, 2005 has been entered.

Claim Objections

2. Claim 13 is objected to because of the following informalities: line 3, the phrase "sad" should be changed to "said". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 5-7 and 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,168,965 to Huang.

Re-claim 1, Huang discloses a hydraulic dashpot comprising: a primary piston; a cylinder; a piston rod, a lower end upon which is mounted the primary piston, the primary piston divides the cylinder into two chambers; the primary piston is provided with breaches (or passages with valves, as known in the art, see also column 1 lines 12-15); a bypass system has two mutually dependently controlled bypasses 22/24 between the two chambers; the bypass system is closeable and openable by various extents through control of a slide 4, the slide is

Art Unit: 3683

provided with flow control breach, and travels back and forth across the two bypasses extending adjacent the slide; each bypass has a separate breach (connected with 16/18); a secondary piston (broadly interpreted as fixed element 9 which supports valve elements 19/20, this is functionally similar to the secondary piston 9 of the instant invention) is hydraulically received in one of the bypasses and is provided with passive damping valves 19/20 for damping fluid through the bypasses.

Re-claims 6 and 7, the two bypasses are openable and closeable sequentially and mutually discontinuously, see figure 1.

Re-claim 9, the secondary piston has a bore (interpreted as the axial passage in element 9) communicating with a beaker shaped hollow space receiving also the secondary piston and opening into an outlet 16 communicating with one of the chambers through a port.

Re-claim 10, the slide 4 is transverse to the outlet, a magnetic means 2 is used for moving the slide.

Re-claim 11, a further bore 18 extends above and parallel to the outlet 16.

Re-claims 12 and 14, the first bore 16 defines the other bypass, the damping valve 20 is in fluid communication with the another bypass, the damping valves have a passive damping characteristic (due to spring 7).

Re-claim 13, fluid flow occurs between the chambers under slow motion of the primary piston.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3683

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang in view of US 6,460,663 to Huang.

Re-claims 8 and 15, Huang teaches a hydraulic dashpot comprising: a primary piston; a cylinder; a piston rod, a lower end upon which is mounted the primary piston, the primary piston divides the cylinder into two chambers; the primary piston is provided with breaches (or passages with valves, as known in the art, see also column 1 lines 12-15); a bypass system has two mutually dependently controlled bypasses 22/24 between the two chambers; the bypass system is closeable and openable by various extents through control of a slide 4, the slide is provided with flow control breach, and travels back and forth across the two bypasses extending adjacent the slide; each bypass has a separate breach (connected with 16/18); a secondary piston (broadly interpreted as fixed element 9 which supports valve elements 19/20, this is functionally similar to the secondary piston 9 of the instant invention) is hydraulically received in one of the bypasses and is provided with passive damping valves 19/20 for damping fluid through the

Art Unit: 3683

bypasses; the two bypasses are openable and closeable sequentially; the primary piston has a bore 14 communicating with beaker shaped hollow space and opens into an outlet (such as 16) communicating with one of the chambers through a port; the slide 4 is transverse to the outlet; a magnetic means 2 moves the slide 4; a further bore (such as 18) extends above and parallel to the outlet; another of the bypasses is formed by the first mentioned bore 14 the hollow space and the outlet 16; the another bypass has damping valves 20 and damping characteristics; fluid flow occurs between the two chambers during slow motion of the primary piston; the another of the bypasses has a bypass connection between the two chambers, the chambers having damping characteristics, the damping valves 19 and/or 20 have a passive damping characteristic.

However, Huang '965 fails to teach the two bypasses having different cross-sections. Huang '663 teaches a dashpot with a plurality of bypasses 27 and 28, wherein the cross section of bypass 27 has a smaller cross section (specifically at 33) than bypass 28. The varied cross section will provide different damping characteristics due in part to flow constrictions. It would have been obvious to one of ordinary skill in the art to have designed the bypasses in Huang '965 with different cross sections as taught by Huang '663, thus adjusting the damping characteristics of the bypass as warranted.

Response to Arguments

8. Applicant's arguments with respect to claims 5-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ashiba teaches a dashpot with a bypass having a secondary piston.

Art Unit: 3683

10. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan, can be reached at 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

October 25, 2005

THOMAS WILLIAMS
PATENT EXAMINER

Thomas Williams
AU 3683
10-25-05